

Judge McMahon

13 CV 9001

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 BRYAN C. KELLER,

4 Plaintiff,

5 v.

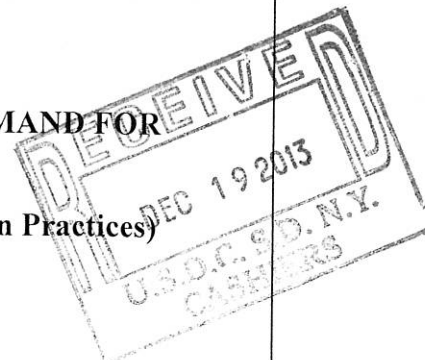
6 ALLIED INTERSTATE, LLC f/k/a ALLIED  
7 INTERSTATE, INC.,

8 Defendant.

)  
)  
) Case No.:

) COMPLAINT AND DEMAND FOR  
) JURY TRIAL

) (Unlawful Debt Collection Practices)  
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)  
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10 COMPLAINT

11 BRYAN C. KELLER ("Plaintiff"), by his attorneys, KIMMEL & SILVERMAN, P.C.,  
12 alleges the following against ALLIED INTERSTATE, LLC f/k/a ALLIED INTERSTATE, INC.  
13 ("Defendant"):

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15 INTRODUCTION

16 1. This is an action for damages brought by an individual consumer for Defendant's  
17 violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter  
18 "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair  
19 practices.

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21 JURISDICTION AND VENUE

22 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C.  
23 §1331.

24 3. Defendant conducts business and maintains its headquarters in the State of New  
25 York, therefore personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. §1391(b)(2).

3 **PARTIES**

4 5. Plaintiff is a natural person, who resides in Otis Orchards, Washington.

5 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

6 7. Defendant is a debt collection company, which maintains its headquarters at 335  
7 Madison Ave., 27th Floor, New York NY 10017.

8 8. At all relevant times, Defendant acted as a “debt collector” within the meaning of  
9 15 U.S.C. § 1692(a)(6), and attempted to collect a “debt” as defined by 15 U.S.C. §1692(a)(5).

10 9. Defendant acted through their agents, employees, officers, members, directors,  
11 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

13 **FACTUAL ALLEGATIONS**

14 10. At all relevant times, Defendant attempted to collect an alleged consumer debt  
15 from Plaintiff, related to a student loan.

16 11. Upon information and belief, the alleged debt arose out of transactions that were  
17 for personal, family or household purposes.

18 12. Further, as Plaintiff has no business debt, the debt sought by Defendant could  
19 have only been personal in nature.

20 13. Throughout July 2013, Defendant’s collectors, including “Elisa Sloan,” placed  
21 repeated, harassing telephone calls to Plaintiff’s work and cellular telephone numbers.

22 14. On at least one occasion, July 31, 2013, Defendant called Plaintiff four times in  
23 one day.

1           15. Defendant's collectors are seeking a debtor named "Brian Keller", who spells his  
2 name differently, and who Defendant says attended Portland State University ("PSU").

3           16. Plaintiff, "Bryan Keller" attended Linfield University, paid off his student loans  
4 in 1993, and has confirmation of payment from US Bank and the Department of Education.

5           17. Plaintiff did attend graduate school at PSU, but did not do so through use of any  
6 student loan.

7           18. Plaintiff has fully advised Defendant's collectors they are calling for the wrong  
8 person and he has no student loan debt, but they failed to listen and continued to call anyway.

9           19. Once told of the above facts, there was no lawful purpose for calling Plaintiff.

10           20. Upon information and belief, Defendant did not investigate or verify the  
11 information Plaintiff provided about being a different person, and spelling his name different  
12 from the debtor Defendant sought.

13           21. Defendant did not continue to collect in error, rather it continued to collect in  
14 direct and intentional disregard of the facts Plaintiff provided.

15           22. Defendant's actions as described herein were taken with the intent to harass, upset  
16 and coerce payment from Plaintiff, as there could not have been any other purpose for its actions.

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20                           **COUNT I**  
21                           **DEFENDANT VIOLATED §§ 1692d AND 1692d(5) OF THE**  
22                           **FAIR DEBT COLLECTION PRACTICES ACT**

23           23. Section 1692d of the FDCPA prohibits debt collectors from engaging in harassing,  
24 oppressive, or abusive conduct in their attempts to collect an alleged consumer debt.

25           24. Section 1692d(5) of the FDCPA specifically enumerates repeatedly causing a  
telephone to ring with intent to annoy, abuse, or harass as a violation.



1        25. Defendant violated sections 1692d and 1692d(5) of the FDCPA when it repeatedly  
2 and continuously placed telephone calls to Plaintiff's work and cellular telephone with the intent  
3 to annoy, harass or abuse Plaintiff in connection with the collection a debt owed by a third party,  
4 and when it engaged in other harassing conduct.

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7                                    **COUNT II**  
8                    **DEFENDANT VIOLATED §§ 1692e, 1692e(2)(A) and 1692e(10) OF THE**  
9                    **FAIR DEBT COLLECTION PRACTICES ACT**

10        26. Section 1692(e) of the FDCPA prohibits the use of false, deceptive or misleading  
11 representation or means in connection with the collection of any debt.

12        27. Section 1692(e) of the FDCPA prohibits the false representation of the character,  
13 amount, or legal status of any debt.

14        28. Section 1692e(10) of the FDCPA prohibits debt collectors from using any false,  
15 deceptive or misleading representation or means in connection with collection of any debt,  
16 particularly using such representation or means to obtain information concerning a consumer.

17        29. Defendant violated sections 1692(e), 1692e(2)(A), and 1692e(10) of the FDCPA  
18 when Defendant's collectors attempted to collect a debt from Plaintiff that he did not owe, and  
19 when it engaged in other false, deceptive or misleading practices.

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21                                    **COUNT III**  
22                    **DEFENDANT VIOLATED § 1692f OF THE**  
23                    **FAIR DEBT COLLECTION PRACTICES ACT**

24        30. Section 1692f of the FDCPA prohibits debt collectors from using unfair or  
25 unconscionable means to collect or attempt to collect a debt.

      31. Defendant violated § 1692f of the FDCPA when it placed repeated telephone calls

1 to Plaintiff, attempted to collect a debt from Plaintiff that he did not owe, and when it engaged in  
2 other unfair and unconscionable practices.

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8 WHEREFORE, Plaintiff, BRYAN C. KELLER, respectfully prays for a judgment as  
9 follows:

- 10 a. All actual compensatory damages suffered pursuant to 15 U.S.C. §  
11 1692k(a)(1);
- 12 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to  
13 15 U.S.C. § 1692k(a)(2)(A);
- 14 c. All reasonable attorneys' fees, witness fees, court costs and other litigation  
15 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- 16 d. Any other relief deemed appropriate by this Honorable Court.
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19 **DEMAND FOR JURY TRIAL**

20 PLEASE TAKE NOTICE that Plaintiff, BRYAN C. KELLER demands a jury trial in  
21 this case.

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1 DATED: 12/16/13

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